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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/644,411

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Gerald H. Ablan

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EXAMINER

HEWITT II, CALVIN L

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/644,411

Applicant(s)

ABLAN, GERALD H.

Examiner

Calvin L. Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 67-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 67-85 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 67-85 have been examined.

Response to Arguments

2. Rackson et al. teach auction submission. Specifically, Rackson et al. teach a seller submitting an item to be auctioned to multiple auction sites (column 9, lines 14-15) wherein the submitted item comprises text, video or audio data for presenting the item to prospective bidders (column 8, lines 30-38; column 9, lines 20-35). Regarding, "menu-based utility" Rackson et al. teach a seller interacting with a website such as Yahoo or Ebay (column 8, lines 24-37) to submit, or create and submit the item description (column 8, lines 24-35; column 9, lines 25-35). Yahoo and Ebay are menu-driven websites hence, to one of ordinary skill a seller interacting with either site to create an item submission is necessarily using a menu-based utility. Conklin et al. teach a system for tracking the status of a seller sales transaction and an interface for displaying information to the seller using a common view (figures 1i, 1g- items 54 and 58, 7, 8, 12, 13, 15a; column 24, lines 18-41), tracking fields (figure 12), feedback messages (abstract; figure 8), sales record library (figure 12), updateable (e.g. alterable) tracking fields for

tracking the status of purchaser notification (e.g. negotiation), transaction completion, item shipped and payment of a transaction (figures, 8, 12, and 13; column 24, lines 18-41), receiving user interaction or input to change display of tracking fields (e.g. the system receives results of negotiation) (figures 1i, 7, 12, and 15a; column 24, lines 18-41) and post-sale feedback (figures 7 and 8). The Applicant is of the opinion that the combined prior art fails to teach Applicant's claims. However, Applicant's analysis is based on what the references teach individually and not what the combination would have suggested to one of ordinary skill (*In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For example, Applicant asserts that the prior art does not teach "an auction monitoring report" (Remarks, 8-24-06, page 5, second full paragraph). The examiner respectfully disagrees. Rackson et al. teach a system for monitoring items submitted for auction on multiple auction sites (figures 2-4; column 8, lines 24-38; column 9, lines 14-35), while Conklin et al. teach a system for providing a seller for monitoring an item for sale through its life-cycle (e.g. order, negotiation, shipping, payment) (figures 1i, 1g- items 54 and 58, 7, 8, 12, 13, 15a; column 24, lines 18-41). Hence, as an auction is just an instance for how to sell an object, the combination of Rackson et al. and Conklin et al. would have been obvious to one of ordinary skill.

Regarding the affidavit, the Examiner has fully considered the paper filed on 1-20-05 and have not found it persuasive. Rackson et al. teach a system a method and system that enables a seller to track multiple auction submissions. This is indisputable. Therefore, the only difference between Applicant's claims in Rackson et al. is a GUI for tracking post sale activities which is taught by Conklin et al.. And, as they both relate to the sales of products there is a clear nexus between the two systems. The Rackson et al. teaching presents a problem for the Applicant as it is directed to the "problem" Applicant attempts to solve and uses the same approach to solve it. The only thing the Examiner can suggest to the Applicant is to attempt to "swear behind" (providing the appropriate evidence of "due diligence") the date of Rackson et al.. Otherwise, the Examiner stands by the rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 67-69, 71-75, 77, 79-82 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270 in view of Conklin et al., U.S. Patent No. 6,141,653.

As per claims 67-69, 71-75, 77, 79-82 and 85, Rackson et al teach an electronic auction system comprising:

- an election auction library comprising records of items (figure 2; column 6, lines 5-9), electronic image, textual description and advertisement libraries comprising reusable images, descriptions and ad templates (e.g. settings data) (figures 3 and 10; column 9, lines 25-35)
- creating a subject auction submission for a selected item comprising image, description and a set of auction parameter fields in a format defined by ad template data and creating the submission by combining the image, description and ad template (column 9, lines 25-35)
- obtaining predefined, user input, or a combination of predefined and input entries setting selected values for the auction parameters and displaying values in connection with corresponding auction parameters fields (column 9, lines 25-35; column/line 18/62-19/3; column 19, lines 22-27)
- storing and posting on multiple auction sites (for sale) the submission (figures 3 and 4; column 9, lines 5-35; column/line 10/52-11/50)

- an auction monitoring report comprising an auction management record for each of the previously posted subject auction submissions (multiple items) (column 27, lines 35-39; column 28, lines 25-30) where each record has information pertaining to auctions, allows a user to manage auctions (column 23, lines 6-10) and each report has a plurality of records (column 28, lines 25-30)
- [periodically] revisiting (i.e. identifying and parsing a webpage) auction sites to obtain information pertaining to the subject auction and updating the record for the appropriate auction with the updated information (i.e. feedback) (column 8, lines 22-39; column 9, lines 35-49; column 12, lines 15-23; column 17, lines 35-37; column 18, lines 5-9; column 23, lines 6-10; column 25, lines 55-61; column 28, lines 25-30)
- determining that the subject auction has closed (column 27, lines 30-39) and processing closed auction data (column 9, lines 27-29; column 17, lines 12-39; column 18, lines 5-48)
- automatically sending a notice of the auction closing (e.g. feedback) in a manner specified in a record associated with the auction monitoring report (column 9, lines 27-29; column 17, lines 12-39; column 18, lines 5-9)

Regarding the displaying of the auction monitoring report and updating the report to include closing information, these features although not explicitly recited are at least

suggested, by the system of Rackson et al. as the allows for clients (i.e. buyers and sellers) to monitor auctions (figure 14 (buyer's perspective); column 28, lines 25-30). Conklin et al. on the other hand, explicitly teach a system for tracking the status of a user's (seller) sales transactions and an interface for displaying information to the user in a common view ('653; figures 8, 12, and 15a). For example, Conklin et al. teach tracking fields as icons ("Click on any order to view the order in more detail...") (figure 12). Conklin et al. also teach a sending an auction feedback message to an auction host or sponsor (abstract; figure 8), sales record library for storing sales records ("Click on any order to view the order in more detail...") (figure 12), updateable (e.g. alterable) tracking fields for tracking the status regarding post-sale operations such as purchaser notification (e.g. negotiation), transaction completion, item shipped and payment (figures 1i, 1g- items 54 and 58, 7, 8, 12, and 13; column 24, lines 18-41) of a transaction, receiving user interaction or input to change display of tracking fields (e.g. the system receives results of negotiation) (figures 1i, 7, 12, and 15a; column 24, lines 18-41) and post-sale feedback (figures 7 and 8). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Rackson et al. and Conklin et al. in order to more effectively (compared to by phone) and efficiently (compared to mail or phone) present auction status report to users.

5. Claims 70, 76, 78, 83 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al., U.S. Patent No. 6,415,270 and Conklin et al., U.S. Patent No. 6,141,653 as applied to claims 73 and 82 above, and in further view of Robinson et al. 5,915,022.

As per claims 70, 76, 78, 83 and 84, Rackson et al. teach a system for conducting electronic transactions (figures 3, 4, 10 and 14). Conklin et al. disclose sales records (figure 12). However, neither Rackson et al. nor Conklin et al. explicitly recite sending a bill or receipt, post-sale, to the purchaser. Robinson et al. teach a method and system for conducting secure transactions comprising obtaining, creating and storing sales and billing records (abstract; figures 1-1-6C). Robinson et al. also teach transmitting a billing record to a purchaser (figure 1-2 and 5). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Rackson et al., Conklin et al. and Robinson et al. in order to authenticate an electronic transaction by providing both parties with an accurate and secure record of the transaction ('022, column 2, lines 35-43).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

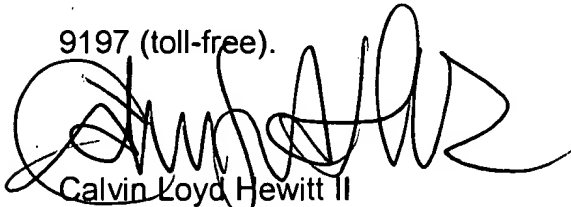
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pairedirect.uspto.gov>. Should you have questions on access to the

Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).



Calvin Loyd Hewitt II
Primary Examiner

October 20, 2006